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November 14, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE
Suite 110
Washington, D.C. 20002

FILED/ACCEPTED

NOV 14 2007

Federal Communications Commission
Office of the Secretary

RE: Opposition; EB Docket No. 07-197

Dear Madame Secretary:

Enclosed for filing on behalf of parties Kurtis J. Kintzel, Keanan Kintzel, and all other Entities by which they do business before the Federal Communications Commission, is the original and 6 copies of the Opposition of the Kintzels, et al., to the Enforcement Bureau's Motion to Dismiss Seriatim Informal Requests, in the above-referenced matter.

Sincerely,

Catherine Park, Esq.

Catherine Park, Esq.

Enclosures: Original + 6 Copies

No. of Copies rec'd 046
ENCLOSURE

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Kurtis J. Kintzel, Keanan Kintzel, and all)
Entities by which they do business before the)
Federal Communications Commission)

EB Docket No. 07-197

Resellers of Telecommunications Services)

FILED/ACCEPTED

NOV 14 2007

To: Presiding Officer, Richard L. Sippel)
(Chief ALJ))

Federal Communications Commission
Office of the Secretary

OPPOSITION OF THE KINTZELS, ET AL., TO THE ENFORCEMENT BUREAU'S

MOTION TO DISMISS SERIATIM INFORMAL REQUESTS

Kurtis J. Kintzel, Keanan Kintzel, and all Entities by which they do business before the Federal Communications Commission ("the Kintzels, et al.") hereby submit this Opposition to the Enforcement Bureau's Motion to Dismiss the Kintzels, et al.'s Seriatim Informal Requests. The Presiding Officer's (Chief ALJ Richard L. Sippel's) Order, issued on November 8, 2007, makes clear that the Presiding Officer does not consider the informal requests to be directed to him for decision.¹ The Kintzels, et al., upon receipt of the Order, accepted that conclusion and filed a pleading directed to the Presiding Officer for decision ("Motion to File Additional Pleading in Opposition to NASUCA's Petition to Intervene") reiterating the substance of the informal requests but directing the pleading to the Presiding Officer by including his name in the caption. Therefore the Enforcement Bureau's Motion to Dismiss should be denied as moot because it seeks a ruling from the Presiding Officer on informal requests under 47 C.F.R. § 1.41

¹ Order, November 8, 2007, FCC 07M-47 ("... CEASE from furnishing copies to the Presiding Judge of correspondence which is addressed to the Commission Secretary.").

that are not currently before the Presiding Officer.

I. The Enforcement Bureau is free to refile its Motion to Dismiss with the Commission Secretary.

The Presiding Officer has already indicated that he will not take jurisdiction over the informal requests²; if the Enforcement Bureau is concerned that the Commission will take jurisdiction, it should refile its Motion to Dismiss with the Commission Secretary. If, as the Enforcement Bureau contends, the informal requests under 47 C.F.R. § 1.41 are indeed procedurally defective, the Commission should dismiss the informal requests out of hand.

II. The Enforcement Bureau's contentions about the pleading cycle are incorrect.

The Enforcement Bureau contends that 47 C.F.R. § 1.45(c) does not permit further pleadings beyond a reply to an opposition. EB Mot. to Dismiss, p. 2. However, the Kintzels, et al., rely on 47 C.F.R. § 1.294(d), which states that, after submission of an opposition and reply, “[a]dditional pleadings may be filed only if specifically requested or authorized by the person(s) who is to make the ruling.” Since § 1.294(d) discusses “Oppositions and replies” with respect to “Interlocutory Actions in Hearing Proceedings,” and since the granting or denial of a Petition to Intervene is an interlocutory action in a hearing proceeding,³ § 1.294(d) upon which the Kintzels, et al., rely, is more on point than the general rule stated in § 1.45(c), upon which the Enforcement Bureau relies.

The Enforcement Bureau further contends that “the Kintzels’ seriatim informal requests for relief are simply disruptive to the hearing process.” EB Mot. to Dismiss, p. 2. The

² *Id.*

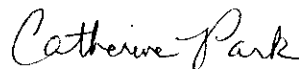
³ See 47 C.F.R. § 1.301(a) and § 1.301(a)(1) (discussing “presiding officer’s ruling” that “denies or terminates the right of any person to participate as a party to a hearing proceeding” as an “interlocutory ruling”).

Enforcement Bureau may view the requests as disruptive, but the Kintzels, et al., are well within their rights under 47 C.F.R. § 1.294(d) to request relief from the person who is to make the ruling. The fact that the adversary (the Enforcement Bureau) of the accused may view the requests as disruptive is simply not relevant. Such requests are permitted by 47 C.F.R. § 1.294(d), and the Kintzels, et al., have every right to avail themselves of 47 C.F.R. § 1.294(d) to defend against the allegations in the instant proceeding.

III. Conclusion.

Wherefore, the Kintzels, et al., request that the Enforcement Bureau's Motion to Dismiss Seriatim Informal Requests be denied as moot.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Catherine Park". The signature is written in black ink and is positioned above a horizontal line.

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Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent for filing on this 14th day of November 2007, by hand delivery, to the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE
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Washington, D.C. 20002

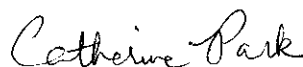
And served by U.S. Mail, First Class, on the following:

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